



# Sales and Use Tax

## General Information

### for Tourist Facilities and Retail Food Stores

#### Utah State Tax Commission

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*If you need an accommodation under the Americans with Disabilities Act, contact the Tax Commission at (801) 297-3811, or TDD (801) 297-2020. Please allow three working days for a response.*

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## General Sales Tax Information

### Introduction

This publication is a general guide for owners, managers, accountants, and other personnel of retail establishments, with more specific information for retail grocery stores, tourist facilities, and other retail stores. It provides basic information, but is not all-inclusive. Future changes to the laws or rules will supercede information in this pamphlet.

### Sales Tax License

All retailers must have a Utah Sales Tax License and related account number. Application for a license and account number is made to the Tax Commission on a Utah State Business and Tax Registration form, TC-69.

Examples of businesses that typically must register for a Sales Tax License include: retailers selling tangible goods or services, wholesalers purchasing resale inventory, manufacturers, leasing companies, and consumers such as professional firms and construction contractors.

### How To Close a Sales Tax Account

Every sales tax license holder that discontinues business in Utah is required to notify the Tax Commission immediately and return the sales tax license for cancellation. Businesses may contact the Taxpayer Services Division of the Tax Commission for assistance in closing sales tax accounts. If the Tax Commission is not informed, the license holder may be assessed an estimated tax, including late penalties and interest.

### Who Must Pay or Collect Sales Tax?

Sales tax is a tax imposed on the rental or retail sale of tangible personal property and charges for certain services. The sales tax is collected from the purchaser, and is remitted by the vendor (or seller) to the Tax Commission on monthly, quarterly, or annual tax returns.

For more information on the collection and payment of sales tax, see Tax Commission Rule R865-21U-6. A full copy of this rule is included in this pub.

## Notification of Liability

If you are purchasing a business, Utah law requires you to withhold enough of the purchase money to cover any taxes due and unpaid until the former owner of the business produces a receipt from the Tax Commission showing that the taxes have been paid, or a certificate showing that no taxes are due. If you fail to withhold the required purchase money, and the taxes remain due and unpaid 30 days after the business is sold, you will be personally liable for payment of the taxes unpaid by the former owner.

## Filing Requirements

### Returns

Filing periods are determined by the Tax Commission. If your sales tax liability is less than \$1,000 per year, you may file annually. If your sales tax liability is more than \$1,000 but less than \$50,000 per year, you may file quarterly. If your sales tax liability is \$50,000 or more, you must file monthly. Returns are due on or before the last day of the month following each filing period. Returns must be filed even if the licensee has no tax liability for a particular period.

### EFT

If your annual sales tax liability is \$96,000 or more, payment must be made by Electronic Funds Transfer (EFT). The EFT must be completed before 3:00 p.m. Mountain Time on the last day of the month succeeding the month of the sales.

### Vendor Discounts

Persons filing monthly sales tax returns are entitled to a vendor discount equal to 1.5 percent of the state tax, 1 percent of the local tax, and 1 percent of the public transit or highways tax. In addition, persons filing monthly tourism tax returns are entitled to a vendor discount equal to 1 percent of the tourism short-term leasing tax adopted by the county. Monthly returns provide a work-sheet on the back to calculate this.

### Penalties

The penalty for failure to file a tax due return by the due date is the greater of \$20 or 10 percent of the unpaid tax. In addition, if a tax balance remains unpaid 90 days after the due date, a second penalty, the greater of \$20 or 10 percent of the tax balance, will be added for failure to pay timely. The penalty for failure to pay tax due as reported on a timely filed return, or within 30 days of a notice of deficiency, is the greater of \$20 or 10 percent of the tax due. In addition, monthly returns filed late or underpaid returns will result in the loss of vendor discount.

Purchasers or lessees who claim sales and use tax exemptions for purchases or leases of manufacturing equipment and machinery; ski resort purchases or leases of snow-making equipment, ski slope grooming equipment, or passenger ropeways; or ski resort purchases of electricity to operate passenger ropeways, are required to report the amount of such purchases or leases on the appropriate informational line of their periodic sales and use tax returns. Sellers making exempt sales to farmers and agricultural producers under the exemption for sales of tangible personal property used or consumed primarily and directly in farming operations must report such sales on the appropriate informational line of their returns. Failure to comply with these reporting requirements may subject the responsible party to a penalty. The penalty imposed shall be the lesser of \$1,000.00 or 10 percent of the sales tax that would have been imposed if the exemption had not applied.

## Interest

Interest will be assessed at the rate prescribed by law from the original due date until paid in full. For information, taxpayers may request form TC-15, Applicable Interest Rates, by calling or writing the Utah State Tax Commission.

## Record Keeping Requirements

### From Tax Commission Rule R865-19S-22

Every retailer, lessor, or person doing business in Utah is required to keep complete records used to determine the amount of sales and use tax for which they are liable. Records must be retained for three years from the filing date of the tax returns. All records shall be open to the Tax Commission or its authorized agents for examination at any time.

These records shall:

- Show gross receipts from sales or rental payments from leases of tangible personal property, or services performed in connection with tangible personal property made in Utah regardless of whether the retailer considers the receipts to be taxable or non-taxable.
- Show deductions and exemptions allowed by law and claimed in filing sales tax returns.
- Show bills, invoices, or similar evidence of all tangible personal property purchased for sale, consumption, or lease in Utah.
- Include the normal account books maintained by an ordinarily prudent business person, together with supporting documents of original entry such as: bills, receipts, invoices, and cash register tapes. All schedules or working papers used in the preparation of tax returns must also be maintained.

**Note:** Any automated data processing (ADP) tax accounting system must be capable of reproducing visible and legible records for tax liability verification. General ledgers with source references should coincide with financial reports for the each tax period. All supporting documentation should be easily accessible. Additional record keeping requirements can be found in Tax Commission Rule R861-1A-35.

## Additional Information

Tax bulletins are available on the Internet. These bulletins provide updated information on changes and clarifications as they occur. Please call the Tax Commission for any questions relating to these taxes at (801) 297-2200 or toll free 1-800-662-4335. See the last section of this booklet for more information.

Once a license has been issued or a new tax imposed, the Tax Commission will mail a personalized return form to each vendor. However, if a vendor does not receive a return form, it is the vendor's responsibility to obtain blank forms, file all appropriate returns, and pay the taxes by the due date. Returns must be filed even if the licensee has no tax liability for a particular period.

Sales tax return forms and schedules vary based on filing requirements and the type of business. The Tax Commission will help business owners identify the proper forms.

## Reminders

This information is only a summary and does not contain all sales or use tax laws and rules.

1. Sales tax must be collected on all taxable sales of tangible personal property to the final consumer.
2. You must file a sales and use tax return whether or not tax is due for a particular period.
3. If you change business locations or add additional stores or outlets, you must notify the Tax Commission in writing.
4. You must retain your records for three years.
5. Records are subject to audit by a Tax Commission representative.
6. If you discontinue business, you must notify the Tax Commission in writing within thirty days of the final date you were required to collect sales tax and surrender your sales tax license.
7. Licenses are not transferable.
8. Merchandise purchased tax free, but used or consumed by you or your company must be reported on the line provided on the sales and use tax return. You must pay sales or use tax on goods that you or your company consume.
9. Signed and completed exemption certificates from your exempt customers (forms TC-721, TC-583, TC-757, TC-721NR, or TC-719) must be retained in your files to verify nontaxable sales.
10. Interstate sales must be documented with a bill of lading or other proof of shipment. The terms of the sale must require shipment or delivery of the property across state boundaries by the vendor.
11. For more information call (801) 297-2200 or toll free 1-800-662-4335, or visit the Tax Commission web site.

Sales and use taxes are “transaction taxes”. This means the tax is not on the articles sold or furnished, but on the transaction, and the purchaser is the actual taxpayer. The vendor is charged with collecting the tax from the purchaser and paying the tax to the state.

### Tangible Personal Property

Tangible personal property means:

- all goods, wares, merchandise, produce, and commodities;
- all tangible or corporeal things and substances which are capable of being possessed or exchanged;
- canned computer software (see Tax Commission Rule R865-19S-92);
- water in bottles, tanks, or other containers; and
- all physically existing articles or things.

## Descriptions and Rates of Related Taxes

### Sales and Use Tax

The sales tax rate is based on the location and type of business in Utah where the merchandise or service is sold (point of sale). The use tax rate is based on the city or county of initial delivery for merchandise or services purchased for use, storage, or consumption in Utah from out-of-state retailers (destination basis). Local sales and use taxes apply in counties and cities at the rate determined by local ordinance. The current combined state and local rate for sales and use tax varies with each locality, depending on the type of business and which taxes have been adopted by the community. Information relating to local sales tax can be found in Tax Commission Rules R865-12L-1 through 18.

### Resort Communities Taxes

Taxes of up to 1½ percent may be imposed at the option of qualifying resort communities on the sale, use or rental of taxable goods and services within the resort community. A community qualifies if transient room capacity is greater than or equal to 66 percent of the permanent population.

**Exception:** Sales of single items costing \$2,500 or more, and wholesale sales are exempt from resort communities tax. Tax Commission Rule R865-12L-15 has more information.

### Tourism Tax

Where adopted, this tax is imposed on the following types of transactions:

- A restaurant tax of up to 1 percent may be imposed on all prepared foods and beverages sold by restaurants.

The term “restaurant” is defined as any retail establishment, other than a theater, whose business is the sale of foods and beverages for immediate consumption. Restaurant includes dinner theaters. See Tax Commission Rule R865-12L-17 for more information.

**Exception:** In counties that have adopted the tourism tax, it does not apply to sales of food from deli areas, pizza take-out counters or salad bars within a grocery store or convenience store whose primary business is the sale of fuel or food not prepared for immediate consumption. These sales are exempt from the tourism tax even if the stores have seats or stools for customers. However, if a grocery store or convenience store has a full-service restaurant, the tourism tax is due on sales in that restaurant.

## Tax Descriptions and Tax Rates

### Difference Between Sales Tax and Use Tax

#### Sales Tax

Sales tax is a tax on the retail sale or lease of all tangible personal property sold and certain services performed within Utah. Sales tax is collected by a Utah licensed retailer or vendor, and is paid to the Tax Commission on monthly, quarterly, or annual tax returns. For more specific information, refer to Utah Code Ann. §59-12-103.

#### Use Tax

Use tax is a tax on all tangible personal property and certain services purchased outside Utah for storage, use, or consumption in Utah and is to be paid directly to the Tax Commission by the consumer, unless the out-of-state retailer is registered with the state and has collected the tax.

Use tax applies to the following:

- Goods shipped from outside of Utah directly to a consumer in Utah for use, storage, or other consumption.
- Goods purchased outside of Utah for use, storage, or other consumption in Utah.
- Services subject to tax performed outside the state or from a place of business outside Utah, on property for use, storage, or other consumption in Utah.

- A tourism tax of up to 7 percent is charged on all short-term motor vehicle rentals or leases. This applies to all rentals of passenger cars or recreational vehicles for a period of 30 days or less, except:
  - leases and rentals of motor vehicles for the purpose of temporarily replacing a motor vehicle that is being repaired pursuant to a repair or insurance agreement;
  - leases and rentals of motor vehicles that are registered for a gross laden weight of 12,001 pounds or more; and
  - leases and rentals of motor vehicles as personal household goods moving vans.

Leases and rentals of motor vehicles that would be exempt from sales tax are also exempt from this tax. Exemptions must be documented by a signed Exemption Certificate, such as TC-721, and retained by the lessor.

- In addition to the transient room tax discussed below, qualifying counties may impose an additional tax of ½ percent on every rental of public accommodations.
- Persons filing monthly returns are entitled to a vendor discount equal to 1 percent of the tourism short-term leasing tax adopted by the county.

### Motor Vehicle Rental Tax

A statewide motor vehicle rental tax of 2½ percent is charged on all short-term motor vehicle rentals or leases. This is in addition to the tourism tax, if adopted, of up to 7 percent on all short-term motor vehicle rentals or leases. The statewide motor vehicle rental tax of 2.5 percent is not eligible for a vendor discount.

The statewide motor vehicle rental tax and the tourism tax, if adopted, both apply to all rentals of passenger cars or recreational vehicles for a period of 30 days or less, **except:**

- leases and rentals of motor vehicles for the purpose of temporarily replacing a motor vehicle that is being repaired pursuant to a repair or insurance agreement;
- leases and rentals of motor vehicles that are registered for a gross laden weight of 12,001 pounds or more; and
- leases and rentals of motor vehicles as personal household goods moving vans.

Leases and rentals of motor vehicles that would be exempt from sales tax are also exempt from this tax. Exemptions must be documented by a signed Exemption Certificate, TC-721, and retained by the lessor. See Tax Commission Bulletin 8-97 for more information.

### Transient Room Tax

Utah counties may impose a transient room tax of up to 3 percent on the rent of rooms in hotels, motels, inns, trailer courts, campgrounds, tourist homes, and similar accommodation for stays of less than 30 consecutive days. The transient room tax, if imposed, is charged in addition to sales tax and in addition to other applicable taxes adopted in the community. The transient room tax does not apply to charges for meeting rooms.

Some counties have also enacted a tourism tax on lodgings.

### Municipality Transient Room Taxes

In addition to the county-imposed transient room tax and the tourism tax on room rents, municipalities may impose taxes of up to 1½ percent on rents charged for public accommodations.

### Rural Health Care Facility Tax

Qualifying rural counties or cities may adopt a rural hospital tax of up to 1 percent. The tax is imposed on the sale of taxable goods and services sold within the adopting jurisdiction, and on the purchase of items subject to the use tax, i.e., items for use, storage, or other consumption within the jurisdiction. This tax is part of the overall sales and use tax in certain localities, and is used to fund rural county and city hospitals, and qualified nursing homes.

### Public Transit Tax

A public transit tax of up to ½ percent may be adopted by counties, cities or communities that have a public transit system. Public transit tax applies in the same manner as the local sales and use tax.

### Highways Tax

A highways tax of ¼ percent may be adopted by counties, cities or communities that have not already adopted the public transit tax. The highways tax applies in the same manner as the local sales and use tax.

### Recreational Facilities and Botanical, Cultural, and Zoological Organizations Tax

Utah counties may impose a tax of 1/10 of 1 percent on all taxable sales and service in the county to fund these types of organizations.

### Town Option Sales and Use Tax

Qualifying towns, as described in Utah Code Ann. §59-12-1302(2), may impose the town option sales and use tax of up to 1 percent. This tax applies in the same manner as the local sales and use tax. Currently, only the town of Snowville has imposed this tax.

### Other Information

The transient room tax, resort communities tax, rural hospital tax, tourism tax, public transit tax, highway tax, and other related taxes are all imposed by qualifying communities. Each tax imposed combines with sales tax, so the tax rate imposed varies from one community to another. Tax rate charts are available on the Tax Commission web site. See the last section of this booklet for more information.

The following miscellaneous taxes and fees may also apply to certain vendors. For more information, contact the Tax Commission.

- Motor fuel, aviation fuel, and special fuel taxes
- Lubricating oil fee
- Beer, cigarette, and tobacco products taxes
- Waste tire recycling fee
- Municipal energy sales and use tax

## Taxable and Tax Exempt Sales

### Taxable Sales

Sales of tangible personal property and related services to final consumers are taxable. These include charges for:

- Retail sales or purchases of tangible personal property.
- Tangible personal property stored, used, or consumed in the state.
- Rentals and leases of tangible personal property.



- Labor to repair, renovate, wash, clean, and install tangible personal property in connection with other tangible personal property. This includes maintenance agreements.
- Laundry and dry cleaning services, other than coin-operated laundry and dry cleaning services.
- Admissions and user fees charged for any amusement, entertainment, recreation, exhibition, cultural, or athletic activity, except admissions to higher education athletic events.
- Hotel, motel, tourist home, and trailer court accommodations.
- Passenger fares on intrastate common carriers, other than taxis and commercial airlines.
- Telegraph services and intrastate telephone service.
- Meals at restaurants or other eating places.
- Electricity and fuels for residential or commercial use (electricity, coal and other fuels sold for residential use are taxed at the state rate of 2% plus any local and/or public transit tax applicable).
- Sales of tangible personal property to contractors for use in real property contracts performed for a government agency, other than a public school, grades K through 12.
- Sales of prepaid telephone calling cards.

## Tax Exempt Sales

### Sales and Use Tax Exemptions

Utah law provides some exemptions from sales and use tax. Some of the more common exemptions are outlined briefly below. For more detail, refer to Utah Code Ann. §59-12-104 and 59-12-104.1.

If a sale qualifies for an exemption, the purchaser may be required to provide evidence of the exemption by completing an appropriate certificate of exemption. Record of the exemption may be documented on form TC-721, supplied by the Tax Commission.

Sales of real property, labor performed on real property, and sales of intangibles (goodwill, patents, etc.) are not subject to the sales and use tax. Exempt sales include:

- Interstate sales (must be delivered by common carrier or the seller to a point outside of Utah). A copy of the bill of lading, freight bill, or other evidence of out-of-state delivery must be kept by the licensed vendor or retailer. If the property is delivered in the state of Utah to a consumer, the tax applies, regardless of its removal from Utah. See Tax Commission Rule R865-19S-44.
- Sales of certain vehicles to nonresidents for use outside of Utah. form TC-583, Nonresident Affidavit for Sales Tax Exemption, is to be used for this exemption. See Tax Commission Rule R865-19S-98.
- Sales to United States and Utah government agencies. Currently, sales of construction materials to Utah government agencies are exempt only if installed by the agencies' employees. Sales of construction materials to a public school district, or to a contractor purchasing on behalf of the school district, are exempt, regardless of who installs the materials. See Tax Commission Rule R865-19S-23 for information relating to documentation of sales to government agencies.

To qualify as a sale made to a U.S. or Utah government agency, the purchase must be made with the government entity's funds. A purchase does not qualify for this

exemption if a government agency employee pays for the purchase with personal funds, even if the employee is reimbursed for the purchase by the government agency. Government employees traveling on official business are NOT exempt from these taxes unless they present:

- a properly completed and signed exemption certificate, form TC-721; or
- a check, purchase order, or voucher supplied by the U.S. or Utah government agency; or
- a U.S. government credit card (also called SmartPay cards), as outlined below.

Credit card purchases that qualify for the exemption from sales tax for purchases by the **federal** government are briefly described below. For detailed information, please refer to FTA bulletin B-07/02.

- **U.S. government fleet purchases:** Fleet cards are blue with a faint graphic of the flag across the top and some cars faintly represented in the middle of the card. The card says "For Official Government Fleet Use Only."
- **U.S. government purchases, other than fleet or travel purchases:** Purchase cards are blue with a red stripe across the top and contain an imprinted phrase: "For Official US Government Purchases Only" or "US Government Tax Exempt."
- **U.S. government travel purchases:**

**Travel cards** with a prefix of 4486, 4716, or 5568 **AND** with a sixth digit of 0, 6, 7, 8, or 9 qualify for sales tax exemption. Travel cards are beige and feature a design of the U.S. Capitol and a large jet. They contain the imprinted phrase: "For Official Government Travel Only."

**Integrated cards** starting with 5568-16 **AND** presented by an employee with I.D. from the Bureau of Reclamation qualify for sales tax exemption. Integrated cards feature a blue sky with clouds, the U.S. Capitol and a flag. There is a very small picture of a jet in flight in the middle. It says "For Official Government Use Only." If the traveler does not have I.D. from the Bureau of Reclamation the purchase may be taxed.

These cards qualify because the federal government agency actually makes payment to the credit card company. A federal government purchase made with a credit card that does not meet the numbering scheme outlined above does **NOT** qualify for the sales tax exemption.

Purchases made with any other credit card are taxable because the federal government reimburses the employee, who then pays the card charges. For example, charges on travel cards with a prefix of 4486, 4716, or 5568 **AND** with a sixth digit of 1, 2, 3, or 4 are individually billed and must be taxed.

The sales tax exemption for purchases by state and local government entities does **NOT** apply to purchases by a state other than Utah or to purchases by any local government entity located outside of Utah. Utah state employees must pay taxes on all lodging, regardless of the credit card used. Utah government purchases of items, other than travel, are tax exempt if purchased with a State purchasing card or paid with a state check. Purchasing cards are issued by U.S. Bank. The cards display the Utah state seal,

"State of Utah Tax Exempt" and are imprinted with the individual purchaser's name and state agency. For detailed information, please refer to Tax Bulletin 9-99. While vendors are required to maintain evidence that a purchase qualifies for the sales tax exemption as a sale to the federal or Utah State government, this requirement is satisfied if the vendor maintains a record of the qualifying credit card number, a copy of the government entity check, purchase order, or voucher, or a properly completed and signed exemption certificate, form TC-721.

- Foreign diplomats – Certain foreign diplomatic employees are exempt from sales tax to varying degrees. These diplomatic personnel are issued tax exemption cards by the U.S. Department of State. The cards are color-striped, indicating the type and/or amount of sales tax exemption. Bearers of cards with a green stripe are not exempt from taxes on hotel rooms. Vendors are instructed to retain a photocopy of the card for evidence of exemption. The cards are not valid to make exempt purchases of telephone service or other utility services; the U.S. Department of State issues special exemption certificates for such purposes.
- Sales for resale or release.\* In addition, the lease of tangible personal property is exempt if it meets all of the following conditions:
  1. the property is part of a sale-leaseback transaction;
  2. sales or use tax was collected on the initial purchase of the property;
  3. the leased property will be capitalized and the lease payments will be accounted for as payments made under a financing arrangement; and,
  4. the purchase, sale, and leaseback must have taken place on or after July 1, 1995.
- Feed, seed, baling ties, etc., sold to commercial agricultural producers.\*
- Professional services by accountants, doctors, lawyers, etc.
- Services performed on the person by barbers and beauticians.
- Sales of hay.
- Motor fuels and special fuels subject to state fuel excise tax.
- Sales of electricity and fuel for industrial use.\*
- Sales to religious or charitable institutions.\* In the case of sales of \$1,000 or more, or sales made pursuant to a contract between the vendor and the religious or charitable institution, the exemption shall be at the point of sale. In all other cases, the exemption shall be in the form of a refund of sales or use taxes paid at the point of sale.

To be eligible for the exemption, the organization must be recognized as exempt under Section 501(c)(3) of the IRS code, and must have obtained a sales tax exemption number from the Tax Commission. Religious and charitable organizations may apply to the Tax Commission for a refund of sales taxes paid. For more information, see Tax Bulletin 13-93-V.

Sales of construction materials to a religious or charitable institution, or to a contractor purchasing on behalf of a religious or charitable institution, are exempt.

**Caution:** the normal religious and charitable exemption does not apply to purchases of Olympic merchandise, unless the exempt entity is purchasing Olympic merchandise for resale.

- Purchases that are properly taxed by another state are entitled to a credit against Utah use tax, in the amount of the tax paid to the other state (up to the applicable combined Utah rate), if the sales tax paid in the other state is equal to or greater than the use tax imposed in Utah. If the sales tax paid to another state is less than the amount which would be due in Utah, the taxpayer must remit the difference to the Tax Commission.
  - Room and trailer space rentals for 30 consecutive days or more.
  - Trades or exchanges of tangible personal property for other tangible personal property. Special provisions apply to trades of vehicles. See Tax Commission Publication 5, and Utah Code Ann. §59-12-104.
  - Sales of food, beverages, and dairy products through vending machines when the proceeds from each sale do not exceed \$1, provided the vendor elects to report on a sales tax return (as goods consumed) 150 percent of the cost of vended food items.
  - Exclusive sale of locally grown crops, seedling plants, or garden, farm, or other agricultural produce, if sold by a producer during the harvest season. "Locally grown" includes those seasonal crops grown within the boundaries of Utah, but excludes those seasonal crops grown outside the state's boundaries.
  - Sales of hearing aids and hearing aid accessories, except batteries, and charges for labor and/or parts used in the repair or renovation of hearing aids and hearing aid accessories. Sales of hearing aid batteries are taxable.
  - The sale of prescription medicine filled by a registered pharmacist is exempt. Medicine includes insulin, syringes, oxygen, stoma supplies, or any medicine prescribed for the treatment of human ailments by a physician, surgeon, or podiatrist. This does **not** include any prosthetic, ophthalmic, or ocular device or appliance; or any alcoholic beverage. No special records other than the cash register prescription (Rx) designation are required.
- Note:** All over-the-counter drugs are taxable, even if prescribed.
- Sales or rentals of physician-prescribed home medical equipment and supplies purchased by or for a patient and used exclusively by the patient in the treatment of a disease or injury.\* The home medical equipment and supplies must qualify for payment under Title 18 or Title 19 of the federal Social Security Act. Charges for labor and/or parts used to repair or maintain qualified home medical equipment are also exempt. Sales of eyeglasses do not qualify for this exemption.
  - Certain farming equipment used or consumed in commercial farming.\* Charges for labor and/or parts (including lubricating oil, antifreeze or other supplies) used to repair or maintain off-road machinery and equipment used primarily and directly in agricultural production are exempt. Vendors that fail to report this on the informational lines of the Sales and Use Tax Return shall be penalized the lesser of \$1,000.00 or 10 percent of the sales and use tax that would have been imposed if the exemption had not applied.
  - Legal tender and certain gold, silver, and platinum items.
  - Parts and equipment installed in aircraft operated by common carriers in interstate or foreign commerce.\* Charges for labor and/or parts used for maintenance, repair or installation in such aircraft are also exempt.

- Materials for real property construction in a state not allowing credit for Utah tax.\* However, these transactions are taxable to the extent that the other state allows credit for Utah tax against that state's tax.
- Sales of food paid with federal food stamps or WIC coupons.
- Sales or leases of vehicles to an authorized carrier. An authorized carrier is a person having credentials to operate the vehicle pursuant to both the International Registration Plan (IRP) and the International Fuel Tax Agreement (IFTA). Use form TC-719, Sales Tax Exemption Affidavit for Authorized Interstate Carriers.
- Forty-five percent of the sales price of a new manufactured home and 100 percent of the sales price of a used manufactured home.
- Sprays and insecticides used to control insects, diseases, and weeds for commercial agriculture, but not those sprays used in the processing of the products.\*
- Sales of coin-operated car washes and dry cleaning and laundry machines.
- Fees charged for certain coin-operated amusement devices, when the vendor does not assist in the sales of tokens and the vendor is unable to collect the sales tax at the time a person inserts coins into the amusement device.
- Fees charged by taxi cabs, including horse-drawn cabs or carriages.
- Fees charged for passenger transportation within a suburban area.
- For any period after June 30, 1998, 100 percent of the sales price of machinery and equipment used for normal operating replacements, and purchased by a qualified manufacturer or scrap recycler. **This exemption does not include amounts for repairs and maintenance.** Purchasers of the qualifying machinery and equipment that fail to report this on the informational lines of the Sales and Use Tax Return shall be penalized the lesser of \$1,000.00 or 10 percent of the sales and use tax that would have been imposed if the exemption had not applied.
- Amounts paid, pursuant to a contract, by an employer or employee for transportation of the employee to the employee's primary place of employment. The party providing the transportation (the employer or a third party, as applicable) must maintain a copy of the contract as evidence that the transaction qualifies for the exemption.
- Admissions to higher education athletic events.
- Sales or leases of rolls, rollers, refractory brick, electric motors or other replacement parts used in the furnaces, mills or ovens of a steel mill described in SIC 3312.

**\*NOTE:** A customer claiming an exemption must give the vendor an exemption certificate. Tax Commission form TC-721, "Exemption Certificate", may be used for this purpose. The vendor must retain the exemption certificate to substantiate exemptions in case of audit.

## Tax Commission Rule R865-21U-6

### Liability of Purchasers and Receipt For Payment to Retailers Pursuant to Utah Code Ann. Section 59-12-107.

- A. Purchasers of tangible personal property—the storage, use, or other consumption of which is subject to tax—must account for the tax liability by paying the tax:
1. to the retailer from whom the property was purchased if such retailer holds a certificate of registration under the use tax act. When property is purchased from a registered retailer, the purchaser is not relieved from the tax liability unless a receipt is obtained from such retailer. This receipt need not be in any particular form but must show the name and registration number of the retailer, the name of the purchaser, the date of the sale, description of the property or reference to the sales invoice, the purchase price, and amount of tax. A sales invoice containing the above information, together with evidence of payment of such invoice, will constitute a receipt. Payment of the tax to a registered retailer under these conditions relieves the purchaser of any further liability.
  2. directly to the Tax Commission if the retailer from whom the property was purchased does not hold a certificate of registration. Under these circumstances, one of the following procedures must be followed:
    - (a) if the purchases are made by a business, as defined in Utah Code Ann. Section 59-16- 2(h), holding or required to obtain a sales tax license or a use tax certificate of registration, the tax is paid on a sales and use tax return;
    - (b) if the purchases are made by any person as defined in Utah Code Ann. Section 59-12-102, who has no sales tax collection responsibility, and if the annual taxes due may be reasonably expected to exceed \$400, such person must apply for registration as a consumer and pay the tax using a quarterly use tax return; or
    - (c) if the purchases are made by an individual who has no sales tax collection responsibility and the annual use tax liability is less than \$400, the tax is remitted using the individual income tax return filed each year. The tax is computed by using the rates provided in the income tax instructions for the address of the consumer as shown on the individual income tax form. If a consumer files as a part-year resident, the latest address in Utah is the basis for the use tax rate to report purchases subject to use tax made during the Utah residency period. If the purchaser does not meet individual income tax filing requirements, the purchaser obtains an income tax filing form and reports and pays the use tax on this form. A statement to the effect that no income tax is due and that the return is submitted for payment of use tax only shall be included with this form. An individual required to report use tax under this subsection satisfies all Tax Commission filing requirements by reporting and remitting the tax due within the time allowed to timely file his individual income tax return.



# Restaurants and Tourist Facilities

## Tax Exemptions Related to Tourist Facilities

### Monthly Rentals of Tourist Homes, Hotel, Motel or Trailer Court Accommodations and Services

Stays of 30 consecutive days or longer are exempt from sales and transient room taxes, as well as the tourism tax on motel/hotel accommodations.

### Trades or Bartering

The sales tax law provides an exemption for the amount allowed as a trade of tangible personal property for other tangible personal property. A lodging accommodation is not personal property. Therefore, a trade involving lodging accommodations does not create an exempt trade. Rooms provided to special guests on a "complimentary" basis are not taxable because there is no charge.

## Restaurant Operations

- The sale of food and beverages by a restaurant is subject to sales tax, including, where applicable, resort communities tax, recreational facilities and botanical, cultural and zoological organizations tax, rural health care facility tax, public transit tax, and highways tax. However, these transactions are not subject to the transient room tax. The entire charge, including charges for corkage, set ups, and *required* gratuities (see Rule R865-19S-94), is taxable as are charges for room service meals and beverages. In counties where the tourism tax on restaurants has been adopted, the tourism tax applies to food and beverages prepared for immediate consumption by restaurants. The restaurant tax does not apply to sales of food and beverages by theaters. A theater is defined as an indoor or outdoor location for the presentation of movies, plays or musicals. The term "theater" does not include dinner theaters nor the presentation of concerts, and sales of food at those events is subject to the restaurant tax. For more detailed information about how the restaurant tax is applied to alcoholic beverage sales, tips, and gratuities, see Tax Bulletin 2-94. For general restaurant tax information, see Tax Bulletin 12-95 or the bulletin issued when your county imposed the tax.
- The cost of ingredients for meals furnished free to employees is subject to applicable sales taxes.
- Tax must be paid on the purchase price of utensils and supplies. Paper or plastic products that are discarded after use by the customer are exempted.
- The restaurant must pay sales tax on items purchased primarily for advertising, such as match books and complimentary menus.

## Resort Packages

- If a third party reserves rooms for its clients, all applicable sales tax, public transit tax, tourism, and transient room taxes are due on the rental. If rooms are discounted for the third party but not for the clients, as is often done for large groups, sales tax is calculated on the full amount normally charged for the rental, not the discounted price.

- If a hotel or a third party agent arranges for ski lift passes, the ski resort must remit taxes on the sales of the lift passes. The hotel or other party is considered the agent of the ski resort. Transient room tax does not apply to lift passes.

Similar treatment shall be applied to other activities where the hotel or third party arranges for the guest to obtain taxable goods, services or admissions.

## Product Sales and Miscellaneous Items

- Sales or rentals of tangible personal property are subject to sales, public transit, rural hospital, highways, recreational facilities and botanical, cultural and zoological organizations tax and resort communities taxes as applicable. For example, ski rentals are subject to sales tax, as are sales made from a gift shop. The sale of magazines is taxable, but the sale of newspapers or postage stamps is not.
- If meal tickets or coupons are sold by persons engaged in selling those particular taxable goods or services, tax shall be collected on the selling price of the meal tickets or coupons.
- Sales made through vending machines are taxable. Tax should be divided out of the total proceeds. For example, assuming a tax rate of 6.125 percent and proceeds of \$550.00, the taxable sales are \$518.26.

$$\$550 / 1.06125 = \$518.26$$

The law provides an optional method of taxing food or drink products where the vended price is \$1 or less. The option allows the operator to pay tax on 150 percent of the purchase price, and treat the sale itself as exempt. See Tax Commission Rule R865-19S-74 for more information.

- Tax is collected by telephone companies for local calls and instate long distance calls. If there is a markup for these calls, sales tax must be collected on the markup.
- Charges made for FAX services are not subject to any of the taxes discussed in this packet.
- Charges for in-room movies are considered user fees and are therefore subject to sales tax.
- Charges for guest rental of videos, whether the guest or the hotel places the video in the VCR, are subject to sales tax and other sales-related taxes as applicable.

## Retail Food Stores

### Sales Price

The **sales price** subject to sales tax is the net amount paid after any trade discounts have been deducted. Total sales include both cash and credit sales.

**Coupons** for which the grocer is reimbursed by a third party, such as a food manufacturer or distributor, are not discounts. The amount subject to sales tax is the sales price of the item, before deducting the value of the coupon. An in-store coupon or coupon issued by the retailer for which no reimbursement is received is considered a trade discount. The taxable amount is the net amount paid for the item after deducting the value of the in-store coupon.

A **premium or gift** given away with the sale of a product that is subject to tax is considered part of that sale, and the purchase of the premium or gift by the retailer is not taxable. Items given away without requiring a specific



purchase and items given away as advertising are considered consumed by the retailer, and the retailer must pay tax on the retailer's cost of those items.

A customer who receives credit for **returned merchandise** is entitled to a refund of the sales tax. If a customer is given a partial refund or allowance, the customer is entitled to a refund of sales tax on the portion of the original sales price refunded.

**Bottle deposits** are subject to tax when soft drinks are sold. When bottles are returned for refund of the deposit, sales tax should also be refunded. Bottle deposits are exempt from tax when purchased with food stamps or WIC vouchers.

When tax is included in the sales price of items sold at **special events**, such as t-shirts, the tax must be calculated separately. To determine the sales price without tax, the proceeds of an accounting period are divided by one (1) plus the tax rate adopted in the community. For example:

- Where the combined rate is 6.0, divide by 1.060
- Where the combined rate is 6.125, divide by 1.06125

**Vending machine sales**, such as machines that dispense soda pop, gum balls, cigarettes or novelty toys, are taxed in the same manner as special event sales. Tax is included in the vended price. However, a vendor of food, beverage, or dairy products of \$1 or less has the option of paying tax on 150 percent of the vendor's cost, including incoming freight costs. If this option is taken, the sale itself is exempt, but the taxable amount (150 percent of cost) must be reported as goods consumed on the return. If the vending machine is owned and serviced by a vending machine company, the tax is the responsibility of the vending machine company.

The total amount charged for **catering** is taxable, including services to prepare and deliver catered foods. **Note:** the restaurant tax must also be collected for catering events if the event is located in a county that has adopted the tax.

A retailer is entitled to a sales tax adjustment for **returned checks and bad debts**. Nontaxable amounts, such as cash back and exemptions, must be deducted from the total amount of the returned check or bad debt amount to arrive at the net write-off amount. The amount of the adjustment to be claimed on the sales tax return is determined by dividing the net write-off amount by one (1) plus the tax rate adopted in the community at the time of sale, as described in the section of special events above.

**Video tape rentals** are taxed in the same manner as sales of tangible personal property.

## Newspapers and Postage

Sales of newspapers and postage stamps are exempt. To qualify as a newspaper, publications must:

- be published daily or weekly;
- be intended for circulation among the general public;
- contain matters of general interest and must report on current events; and
- must not constitute a book when multiple issues are put together.

The regularly circulated newspapers such as the *Tribune*, *Deseret News*, *USA Today*, and local town papers such as the *Davis County Clipper* are considered newspapers. Tabloids such as *Enquirer*, *Star*, *Globe*, etc., are considered magazines and are taxable. Magazines, such as *US News* and *World Report*, *Ladies Home Journal*, and *Time*, are taxable.

## Money Orders, Faxes and Photocopies

Money order fees and charges for sending or receiving faxes are not subject to sales tax. Photocopying charges are taxable.

## Goods Consumed by the Retailer

Items consumed by the retailer are subject to sales tax on the amount of the retailer's cost of the items, not the selling price. Items consumed by the retailer include:

- **items taken from a retailer's inventory** and used by the retailer;
- **samples** given away for advertising; and,
- products **consumed by employees** without payment.

When making purchases for store use from local vendors, tax should be paid to the vendor. For example, **office supplies and equipment**, such as labels for internal accounting, cash register tapes, returnable containers, and furniture are taxable at the point of sale.

The retailer may purchase **grocery bags and sacks**, and other non-returnable packaging material that "go out the door with the customer" tax-free.

No tax is due on **items discarded** because of spoilage, broken packaging, and similar incidents, because they are not considered as consumed by the retailer.

The purchase of printed **advertising inserts** is taxable unless the inserts contain the name and publication date of the newspaper distributing the inserts and are included in and distributed with the newspaper. See Tax Commission Rule R865-19S-65.

## Cigarettes and Tobacco Products

**Any entity selling cigarettes and/or tobacco products** must obtain a license (included on the general application form TC-69 from the Tax Commission) for each selling location. Civil penalties apply to any licensee selling to underage youth (under 19 years). Questions related to underage provisions should be directed to your local health department.

The sale of cigarettes and/or tobacco products is subject to state and local sales tax. The amount subject to sales tax includes the cigarette or tobacco products tax. Tobacco products tax is due from the **first purchaser** within the state. If a retail store purchases directly from an out-of-state source not collecting the tax, the retail store must be registered and bonded, and remit the tobacco products tax along with form TC-553 on the last day of the month following each calendar quarter.

Cigarette tax is paid by purchasing stamps from the Tax Commission which must be affixed to each package within 72 hours of being received. Stamps are only available to registered and bonded businesses. No cigarettes may be sold without a stamp on each pack. Any cigarette package without the proper stamp is subject to a \$25 penalty and confiscation.

Application and registration for tobacco products and/or stamping is also made on the general application, form TC-69.

## Agencies

The following agencies can be contacted when starting a new business:

Type of Information	Contact
Sales and Use Tax Withholding Tax Cigarette Tax Beer Tax Motor Vehicle Dealer	Utah State Tax Commission 210 N 1950 W Salt Lake City, UT 84134 (801) 297-2200 1-800-662-4335
Special Fuel Permit Fleet Vehicle Registration Prorate IFTA	Utah State Tax Commission Tax and MV Processing 210 N 1950 W Salt Lake City, UT 84134-8040 (801) 297-6800
Unemployment Compensation	Dept. of Workforce Services 140 E 300 S, 3rd Floor P.O. Box 45288 Salt Lake City, UT 84145-0288 (801) 536-7749 1-800-222-2857
Worker's Compensation	Labor Commission Heber M. Wells Bldg, 3rd Floor 160 E 300 S Salt Lake City, UT 84114-5610 (801) 530-6800 1-800-530-5090
Articles of Incorporation Limited Liability Co. Info. Business Trust Registration Corporation Information DBA Registration Withholding Tax Sales and Use Tax	Department of Commerce Heber M. Wells Bldg, 1st Floor 160 E 300 S Salt Lake City, UT 84134 (801) 530-4849
Federal Withholding Self Employment Tax	Internal Revenue Service 50 South 200 East Salt Lake City, Utah 84111 1-800-829-1040
Social Security	Social Security Administration American Towers 46 W 300 S, Room 100 Salt Lake City, UT 84111 (801) 524-4115 1-800-772-1213
Business License	Contact the city or county where your business is located.

## Internet Information

### State of Utah Web Site

[www.utah.gov](http://www.utah.gov)

This site has links to:

- Workforce Services (unemployment)
- Labor (worker's compensation)
- Commerce (corporations, DBA registration)

### Tax Commission Web Site

[www.tax.utah.gov](http://www.tax.utah.gov)

This site has links to:

- Internal Revenue Service
- Utah Counties (business license, property tax)
- Multistate Tax Compact
- Other State's Revenue Departments